

Members

Sen. Beverly Gard, Chairperson
Sen. Kent Adams
Sen. Glenn Howard
Sen. Vi Simpson
Rep. Ron Herrell
Rep. Jonathan Weinzapfel
Rep. Richard Mangus
Rep. David Wolkins
Gary Reding
Randy Edgemon
Mayor William Goffinet
Mayor James Trobaugh
Art Smith, Jr.
Ellen Tobias
William Hayden
Kerry Manders
Lori F. Kaplan
Sandra Miles



ENVIRONMENTAL QUALITY SERVICE COUNCIL

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Robert Bond, Attorney for the Council
Bernadette Bartlett, Fiscal Analyst for the Council

Authority: P.L. 248-2001 (SEA 121)

MEETING MINUTES¹

Meeting Date: October 15, 2001
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington
St., Senate Chambers
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Sen. Beverly Gard, Chairperson; Sen. Kent Adams; Sen. Glenn Howard; Sen. Vi Simpson; Rep. Jonathan Weinzapfel; Rep. Richard Mangus; Rep. David Wolkins; Mayor James Trobaugh; Art Smith, Jr.; Ellen Tobias; William Hayden; Kerry Manders; Lori F. Kaplan; Sandra Miles.

Members Absent: Rep. Ron Herrell; Gary Reding; Randy Edgemon; Mayor William Goffinet.

Sen. Gard opened the meeting at 1:05 p.m. The minutes from the EQSC meeting of September 28, 2001, were corrected as to the time of the meeting (began at 10:00 a.m. and ended at 12:50 p.m.) and approved.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Sen. Gard introduced Andrew Lausted, State Revolving Fund (SRF) Specialist, U.S. Environmental Protection Agency (EPA), for a presentation on Indiana wastewater and drinking water SRF programs. Mr. Lausted described the first wastewater program that began in 1990, under which a federal grant was made to the state. The grant served as security for bond issues, the proceeds of which were used to make low interest loans to political subdivisions for wastewater treatment upgrades. In 1996, a similar program was instituted for drinking water programs. To date, loans totaling almost \$1 billion have been closed in the combined SRF programs.

EPA conducts annual reviews of and reports on the environmental and financial aspects of Indiana's combined SRF programs. The most recently completed review covered calendar year 2000. The review revealed a record program pace. Duplication of effort results from the performance of accounting functions for the programs by both the Indiana Department of Environmental Management (IDEM) and the Indiana State Budget Agency (ISBA). The EPA report recommended consolidation of the accounting functions into one organization. Significant delays were noted in the implementation of the state drinking water SRF set aside work plans. The state is permitted to set aside a portion of its annual capitalization grants to undertake mandates under the state drinking water act. IDEM and ISBA have determined to use set asides, but EPA would like to see the pace of the use of set asides increased. EPA encouraged the state to use the wastewater SRF in the state watershed cleanup effort. That program can be used to fund nonpoint source loans.

In response to a question from Art Smith, Jr., Mr. Lausted stated that the state receives a nonpoint source grant of approximately \$5 million per year for locating sources of pollution. The SRF program is then used to address the problems.

In response to questions from Sen. Gard, Mr. Lausted addressed the amounts of grants allocated to set aside programs, the extent to which the grants were used for set aside projects, and IDEM accounting reports and administrative costs. He stated that federal money has been made available for IDEM contracts for administration of SRF programs, but has not yet been used by the state. Mr. Lausted also addressed the charging of salaries within IDEM to the correct accounts. Sen. Gard expressed concern that some of the same issues appearing in the 1999 report also appear in the 2000 report. Mr. Lausted cited Minnesota as a good example of program accounting practices, and noted that no state has a single environmental finance authority.

In response to questions from council members, Mr. Lausted: (1) stated that wastewater SRF money can be used to address nonpoint source pollution concerns and septic systems problems; (2) described his understanding of some of the reasons for delays in the approval of state contracts under the SRF programs; (3) addressed the windows of opportunity for use of the set aside funds; (4) stated that Indiana is understaffed in the SRF programs; and (5) cited Minnesota as a leader in the use of nonpoint source loans.

Sen. Gard commented that there is a need to increase funding in the nonpoint source project area, but that the accounting and financial management issues must be addressed first, including the adoption of a comprehensive plan.

Commissioner Kaplan commented that although the SRF programs were slow in getting started, much progress has been made in recent years through increased coordination between IDEM and ISBA. With respect to contract delays, Commissioner Kaplan described the state approval process that can require as much as a year. The issue concerning incorrect charging of staff compensation has been corrected. Concerning reporting from IDEM to ISBA, the number of reports has been increased, and IDEM is available to provide information to ISBA as needed.

In response to a question from Sen. Gard, Commissioner Kaplan stated that IDEM is streamlining reporting and accounting procedures, and is working with ISBA to maximize accounting efficiency and use of set aside funds. Sen. Gard expressed concern about potentially losing set aside funds that go unused. Mr. Lausted indicated that although currently unused set aside funds revert to the SRF program loan pool, allowing funds to go unused can affect the amounts of future capitalization grants.

In response to a question from Rep. Weinzapfel, Commissioner Kaplan stated that with respect to wastewater nonpoint source issues, SRF program money can be provided only to political subdivisions, and that a statutory amendment would be needed to allow use by private entities. In response to a question from Mr. Smith, Commissioner Kaplan indicated that IDEM is looking at ways to encourage and increase participation in the SRF programs by political subdivisions.

Tim Method, IDEM, elaborated on the various aspects of the set aside programs and on IDEM contracting under those programs. In response to a question from Sen. Gard, Mr. Method indicated that IDEM is working closely with ISBA to address accounting issues, and that those issues could be addressed in various ways without legislation.

In response to a question from Rep. Weinzapfel, Mr. Method stated that Indiana law does not permit use of SRF funds by private entities. Mr. Lausted stated that Ohio has a program under which funds are made available to private entities.

In response to a question from Rep. Weinzapfel, Rich Emery, ISBA, commented that the ISBA believes it has the expertise and resources to administer the accounting functions of the SRF programs.

In response to questions from Ms. Miles, Mr. Method commented on IDEM's setting of priorities in the current lean budget environment, and Mr. Lausted commented on federal funding for SRF programs.

Sen. Gard began discussion of the technical assistance issue. Jim Mahern, IDEM, presented information concerning the status of the IDEM technical assistance program and current efforts to meet IDEM's goal of assisting regulated entities in achieving compliance and promoting cooperation between IDEM and regulated entities. Mr. Mahern provided to the council the "2001 Compliance and Technical Assistance Program Update" (Exhibit 1). He described the various ways in which the program provides assistance and the specific compliance assistance tools available to the public, including telephone assistance, on-site visits, workshops and seminars, and inspector referrals. IDEM received an award this year from the Council of State Governments for its Childcare 5-Star Environmental Recognition Programs. Mr. Mahern described: (1) the Toxic Release Inventory, which aids local governments in preparation for response to chemical emergencies; (2) the Indiana Materials Exchange, which facilitates recycling and reuse of industrial and commercial waste and maintains and distributes listings of materials available and materials wanted; and (3) the Environmental Management Systems for the definition and management of potential environmental impacts. He noted that technical assistance focuses on particular agricultural, commercial, and industrial activities, including the recently added activities of metal casting and auto salvage. Mr. Mahern described the Information Management System, utilization of technical assistance, county assistance efforts, on-line information, customer surveys, and other state resources.

In response to a question from Sen. Gard, Mr. Mahern described the extensive procedures in place for maintaining client confidentiality, and the manner in which the technical assistance program addresses inquiries from entities that are not in compliance.

In response to a question from Kerry Manders, Mr. Mahern stated that few inquiries are received from the agricultural sector, but that agriculture is currently a targeted sector, and such inquiries are likely to increase. Mr. Mahern also described the most common subjects of inquiries, and indicated that the dumping of "gray water" has not been an area of inquiry.

In response to questions from Ms. Miles, Mr. Mahern indicated that information on financial assistance is also provided as part of the program, that grants of immunity are not given, and that a system is in place for follow-up after advice is given. In response to a question from Ellen Tobias, Mr. Mahern stated that surveys are used to get feedback on program effectiveness.

Terry Streuh, Dr. Dave McKennis, and Dr. Ron Turco discussed Purdue University's technical assistance program. Dr. McKennis described operations in the economic development and manufacturing sectors. The program works with 250 companies per year on issues such as productivity, product design, and environmental health and safety. Information provided focuses on technical issues rather than compliance issues. Examples of issues addressed are odor control, wastewater discharge, and air quality in enclosed manufacturing facilities. Dr. Turco is the director of Purdue University's Environmental Science and Engineering Institute, which brings together resources in the university's environmental science areas. The Institute develops best management practices in the areas of watershed management and assessment, global climate change, risk assessment, and remediation of contamination. Dr. Turco gave some examples of recent projects.

In response to a question from Sen. Howard, Dr. Turco stated that the City of Indianapolis has not communicated with the Institute on water contamination issues. In response to a question from Sen. Gard, Dr. Turco indicated that the Institute has not evaluated new septic systems technology, other than in the area of wetlands, but would like to see more experimentation in this area. Mr. Streuh described a study on septic systems done many years ago but not pursued. Dr. Turco also commented on odor reduction efforts, including animal feeding research.

Dr. Lynn Corson, director of the Indiana Clean Manufacturing Technology and Safe Materials Institute (CMTI), described CMTI's operations, which serve primarily small manufacturers and focus on air emissions problems. He provided a handout on the CMTI (Exhibit 2). Dr. Corson gave examples of: (1) the types of manufacturers assisted by the CMTI in the reduction of environmental wastes; (2) the cost effectiveness of the program; and (3) the amount of pollutant reductions achieved.

In response to questions from Sen. Gard, Dr. Corson addressed the funding of CMTI, and indicated that the CMTI is able for the most part to meet the needs of its clients, but that it could provide more services if it had greater resources. In response to questions from Bill Hayden, Dr. Corson stated that the CMTI is closely involved with the plastics industry, and that the CMTI has not worked with the General Electric plant in southwestern Indiana.

Sen. Gard summarized the technical assistance issues as follows:

1. Are we meeting technical assistance needs in the best possible and non-threatening way?
2. Where do technical assistance programs overlap?
3. What is the best way to direct those in need to the right technical assistance resources?
4. How do we best use the expertise of state supported universities?

Sen. Gard asked Rep. Mangus to begin discussion on recycling issues. Rep. Mangus

introduced Tim Neese, Administrator of the Solid Waste Management District in Elkhart County, which is a single county district that won a Governor's Award for Excellence in Recycling this year. The district is funded from landfill tipping fees. Recycling success, measured by diversion of waste from landfills, is gauged by survey responses from the private sector. The district sponsors household hazardous waste collection. Mr. Neese questions the need for mandatory recycling, but emphasizes the need for record keeping.

In response to questions from council members, Mr. Neese: (1) described how he maintains both cost control and efficiency in the district; (2) indicated that the district does not have mandatory recycling, but instead uses curbside recycling in the City of Elkhart and numerous drop-off sites in the county; (3) stated that improper dumping of materials that cannot be recycled is not a big problem in the district; (4) addressed current markets for recycled materials; (5) stated that there is one public landfill and one private landfill in the county; (6) noted that the district does not have a Toxaway Program, but that the hazardous waste dropoff program is effective; (7) described the ten items subject to recycling in the district; (8) described the manner in which recycling is addressed in schools and other governmental entities; (9) addressed the incentives in place in the district for recycling; (10) commented on the importance of public education on the processing costs for recycled materials; and (11) commented on the useful lives of landfills.

Mr. Mahern discussed state recycling issues, noting that solid waste management is addressed by the state through IDEM, the Indiana Department of Commerce (IDOC), and the Indiana Department of Administration (IDOA). He provided to the council Waste Reduction and Recycling in Indiana, an Activities Report (Exhibit 3) and Reducing Waste, Building Business (Exhibit 4). Much of the current state program was enacted in Public Law 10-1990, which established solid waste management goals, local government tools to deal with solid waste, and a broad foundation of state resources. The solid waste reduction goals are not enforceable requirements. Mr. Mahern described the means by which progress toward the goals is measured, the diversion rate (determined for 2000 to be 35%), and the various state grant programs and other programs related to solid waste reduction.

Sarah Carney, IDOC, reviewed IDOC's involvement in recycling efforts. IDOC works with Indiana businesses to build markets for recyclables, promote use of recycled-content products, and encourage reduction of waste. Ms. Carney described the results of the Recycling Economic Information Project, showing economic impacts from twenty-six industry categories of recycling and reuse. She also described the IDOC technical assistance and financial assistance programs, the recyclable material market directory, and the "Buy Recycled" program. Ms. Carney provided information on the amount of diversion from landfills resulting from IDOC programs. Grant programs have provided over \$435,000 for thirty-three projects.

Janet Fox Neltner, IDOA, made a presentation concerning "Waste Reduction, Recycling and Greening Indiana's Government." State government recycles numerous items at the Indiana Government Center and elsewhere in the state. A significant portion of state purchases include recycled-content items and significant amounts of material have been diverted from disposal. A Greening Executive Order was signed by the Governor in 1999, which provides for a comprehensive environmental plan, energy conservation, and pollution prevention.

Rep. Mangus discussed recycling issues. In 1995, the Solid Waste Management District in St. Joseph County (the District) had generated through tipping fees a cash reserve of \$1.2 million. In late 1996 or early 1997, Rep. Mangus, upon inquiry to the District, was told that

there was no longer a cash reserve, and that the money had been spent on voluntary recycling. Soon thereafter, the District imposed a fee of \$2.70 per month in unincorporated areas of the county for what was referred to as "mandatory recycling" even though there was no state or local law to make recycling mandatory.

Rep. Mangus referred to and questioned the reliability of an IDEM report concerning recyclable materials handled by recycling companies in the state. He pointed out an error with respect to South Bend Wastepaper that showed for a particular period receipt by the company of 1,059 tons of recyclable materials, and delivery by the company of 1,059 tons of materials to a landfill.

Rep. Mangus referred to a 1997 Hoosier State Press Association newsprint recycling survey. The survey identified fifty-eight newspapers that exclusively used recycled newsprint, even though there could not have been enough recycled newsprint available to make that possible, and most of the weight and volume of a major newspaper consists of glossy and slick paper that cannot be recycled.

Rep. Mangus believes it is inappropriate that the St. Joseph County Commissioners approved the "mandatory recycling" fee in the District even though they do not have a recycling program in place in the courthouse or other county buildings.

Rep. Mangus made the following recommendations:

1. If a solid waste management district proposes to impose a curbside recycling fee in the unincorporated area of a county, the proposal should be subject to approval by the county council.
2. A municipality that does not use a landfill in a particular solid waste management district for disposal of municipal solid waste, and therefore does not pay tipping fees to the landfill, should not have the right to benefits from that district. Similarly, a municipality that disposes of municipal solid waste at an out of state landfill, and therefore does not pay any solid waste fees to the state, should not have the right to benefits from the state that relate to solid waste management.
3. A local government unit should not be permitted to impose recycling if the unit does not recycle in its own government buildings.
4. A definition should be developed to determine what percentage of recycled material must be incorporated for a product to be considered a recycled product.

In response to a question from Mr. Manders, Rep. Mangus stated that he is unsure of the appropriate percentage of recycled material that must be incorporated for a product to be considered a recycled product, but that 50% might be reasonable. Sen. Gard commented that she would like to see data on the percentage of waste materials collected for recycling that instead goes to landfills.

Glenn Pratt commented that it is necessary to look at the SRF programs in a comprehensive manner. Indianapolis needs more data for development of its control plan, and it was anticipated earlier this year that a study plan would be developed to collect data in such areas as combined sewer overflow, septic systems, and farm runoff. No such plan has been developed. It is inappropriate to spend in excess of \$1 billion on combined sewer overflow without properly addressing septic systems issues. Comprehensive evaluations are needed, and he does not see progress.

Steve Key, Hoosier State Press Association, commented on Rep. Mangus' concern about the use by newspapers of glossy paper. Paper producing companies are in the process of retooling to address the problem. The percentage of recycled fiber content in newsprint has been steadily increasing in recent years.

Mark Davis, Executive Director of the Monroe County Solid Waste Management District, commented that over 90% of recycled material collected in his district is actually recycled.

Sen. Gard informed the council that the last meeting of this year on October 30 will be devoted largely to discussion of council recommendations to be included in the final report. The meeting was adjourned at 4:20 p.m.